

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**vs.**

**ABC VIATICALS INC., et al.,  
Defendants.**

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**No. 3:06-CV-2136-P**

**ORDER OF THE COURT ON RECOMMENDATION REGARDING  
REQUEST TO PROCEED IN FORMA PAUPERIS ON APPEAL**


Considering the record in this case and the recommendation of the Magistrate Judge, the Court hereby finds and orders:

- ( ) The request for leave to proceed *in forma pauperis* on appeal is GRANTED.
- (X) The application for leave to proceed *in forma pauperis* on appeal is DENIED because the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that the appeal is not taken in good faith. In support of this certification, the Court adopts and incorporates by reference the Findings, Conclusions, and Recommendation filed in this case on February 22, 2013, and the Order Accepting in Part and Denying in Part the Findings, Conclusions, and Recommendation, filed in this case on March 28, 2013. Based on those findings and order, this Court finds that the appeal presents no legal points of arguable merit and is therefore frivolous.
- (X) Although this court has certified that the appeal is not taken in good faith under 28 U.S. C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), the defendant may challenge this finding pursuant to *Baugh v. Taylor*, 117 F.3d 197 (5th Cir. 1997), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of this order. The cost to file a motion to proceed on appeal with the Fifth Circuit is calculated below, and if the plaintiff moves to proceed on appeal *in forma pauperis* the prison authorities will be directed to collect the fees as calculated in this order.
- (1) Defendant is assessed an initial partial fee of **\$ 0.00**. See 28 U.S.C. § 1915(b)(1).
- (2) Thereafter, Defendant shall pay **\$455.00**, the balance of the filing fee, in periodic installments. Defendant is required to make payments of 20% of the preceding month's income credited to the Defendant's prison account until

Defendant has paid the total filing fees of \$455.00. The agency having custody of Defendant shall collect this amount from the trust fund account or institutional equivalent, when funds are available and when permitted by 28 U.S.C. § 1915(b)(2), and forward it to the clerk of the district court.

(3) If Defendant files a motion to proceed *in forma pauperis* on appeal directly with the Fifth Circuit, the clerk shall mail a copy of this order to the inmate accounting office or other person(s) or entity with responsibility for collecting and remitting to the district court interim filing payments on behalf of prisoners, as designated by the facility in which the prisoner is currently or subsequently confined.

**Signed this 22<sup>nd</sup> day of July 2013.**

  
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**JORGE A. SOLIS**  
**UNITED STATES DISTRICT JUDGE**